

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KEVIN LAVON GILES,

Plaintiff,

v.

Case No. 23-cv-10951

Hon. Jonathan J.C. Grey

Magistrate Judge Kimberly G. Altman

JONATHAN HEMINGWAY,
et al.,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION (ECF No. 62), GRANTING MOTIONS TO
DISMISS OR SUMMARY JUDGMENT (ECF Nos. 22, 49, 54) and
DISMISSING CAUSE OF ACTION WITH PREJUDICE**

Pro se plaintiff Kevin Lavon Giles filed this 42 U.S.C. § 1983 lawsuit against defendants Warden Jonathan Hemingway, Raymond Howes, Scott Tofil, and Nicole Clingerman, alleging that defendants violated his Eighth and Fourteenth Amendment rights. (ECF No. 1). This matter comes before the Court on Magistrate Judge Kimberly Altman's Report and Recommendation dated May 20, 2024. (ECF No. 62.) In the Report and Recommendation, the Magistrate Judge recommends that the Court grant defendants' motions to dismiss or, in the alternative, for summary judgment (ECF Nos. 22, 49, 54) and dismiss Giles' cause of

action. (See ECF No. 62.) (*Id.*) No party has filed an objection to the Report and Recommendation.

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Finding no error in the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation in its entirety. Furthermore, as neither party has raised an objection to the Report and Recommendation, the Court finds that the parties have waived any further objections to the Report and Recommendation. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (a party's failure to file any objections waives his or her right to further appeal); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

For the reasons stated above, **IT IS ORDERED** that the Report and Recommendation dated May 20, 2024 (ECF No. 62) is **ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that the motions to dismiss or, in the alternative, for summary judgment (ECF Nos. 22, 49, 54) are **GRANTED**.

IT IS FURTHER ORDERED that this cause of action is
DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated: July 25, 2024

s/Jonathan J.C. Grey
JONATHAN J.C. GREY
UNITED STATES DISTRICT JUDGE

Certificate of Service

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 25, 2024.

s/ S. Osorio
Sandra Osorio
Case Manager